

BONDS REQUIRED OF CONSULAR OFFICERS.

JUNE 24, 1898.—Ordered to be printed.

Mr. NELSON, from the Committee on Commerce, submitted the following

REPORT.

[To accompany H. R. 8925.]

The Committee on Commerce, to whom was referred the bill (H. R. 8925) entitled "An Act to amend sections 1698 and 1734 of the Revised Statutes of the United States," have had the same under consideration and submit the following report:

The report of the Judiciary Committee of the House of Representatives upon this bill, a copy of which is hereto attached, truly sets forth the object and purpose of the same, and your committee concur in the views expressed by the Judiciary Committee. But your committee are of the opinion that the same remedies that are given private parties upon the bonds of vice-consuls-general and vice-consuls ought also to be given in the case of consuls-general, consuls, and commercial agents, and therefore recommend the amendment of section 1697 of the Revised Statutes as hereinafter set forth.

Your committee are further of the opinion that, inasmuch as when suits are likely to be commenced upon the bond the principal may be a nonresident, and hence, in order that there may be no impediment to suits upon bonds on that account, service in such cases should be allowed to be made on the principal of the bond by filing the summons or other process with the Secretary of the Treasury, and that such filing should be deemed a sufficient service on the principal. Your committee accordingly recommend an amendment to carry out this view.

Your committee recommend the adoption of the following amendments to said bill, and recommend that the bill, when so amended, do pass:

Amend line 3, page 1, of the printed bill, by striking out the word "ninety-eight" and inserting the word "ninety-seven" in place thereof.

Further amend by inserting after the word "follows," in line 5, page 1, of the printed bill, the following:

SEC. 1697. Every consul-general, consul, and commercial agent, before he receives his commission or enters upon the duties of his office, shall give a bond to the United States, with such sureties, who shall be permanent residents of the United States, as the Secretary of State shall approve, in a penal sum not less than one thousand dollars, and in no case less than the annual compensation allowed to

such officer, and not more than ten thousand dollars, and in such form as the President shall prescribe, conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person, to his use as such consul-general, consul, or commercial agent under any law, now or hereafter enacted, or by virtue of his office; and for the true and faithful performance of all other duties, now or hereafter lawfully imposed upon him as such consul-general, consul, or commercial agent.

The bond herein mentioned shall be deposited with the Secretary of the Treasury. In case of a breach of any such bond, any person thereby injured may institute, in his own name and for his sole use, a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant, and the United States shall, in no case, be liable for the same. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by a breach of the condition of the same until the whole penalty has been recovered; and the proceeding shall always be as directed in this section.

SEC. 2. That section sixteen hundred and ninety-eight of the Revised Statutes of the United States be, and the same is, amended to read as follows:

Further amend said bill by adding at the end of line 14, page 2 of the printed bill, the following:

That when suit is brought upon the bond prescribed in this or the preceding section, if the principal in the bond resides in a foreign country, the summons or other process may be served upon him by filing a certified copy of the same with the Secretary of the Treasury, which service shall be deemed sufficient to give the court jurisdiction over the person and property of the defendant; and the bond prescribed in this and the preceding section shall contain a condition to accept such service as sufficient to give the court jurisdiction as aforesaid. The principal shall have ninety days from the time of such service in which to enter his appearance in the action. When a copy of such summons or other process has been filed with the Secretary of the Treasury, he shall at once mail a copy thereof to the principal at his last known place of residence.

Further amend said bill by striking out the figure "2" in line 15, page 2, of the printed bill, and insert in place thereof the figure "3."

Amend the title of the bill so as to read as follows:

An act to amend section sixteen hundred and ninety-seven, sixteen hundred and ninety-eight, and seventeen hundred and thirty-four of the Revised Statutes of the United States, relating to consul and vice-consul generals, consuls and vice-consuls, and commercial agents.

[House Report 1568, Fifty-fifth Congress, second session.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6925) to amend sections 1698 and 1734 of the Revised Statutes of the United States, submit the following report:

The effect of this bill is to amend section 1698 of the Revised Statutes so that bonds shall be required from vice-consuls-general as well as vice-consuls, as now provided. It also requires that the sureties on such bonds shall be permanent residents of the United States, the law now having no such provision.

No good reason is known why vice-consuls-general should not be required to give bonds as well as to require them from vice-consuls.

Such officials frequently, by virtue of their official position, come into possession of money or property belonging to citizens of the United States, as well as money belonging to the United States, and unless the sureties on such bonds are residents of the United States the bonds will practically amount to nothing as a security, either to the United States or to citizens of the United States. Hence by the amendment proposed by this bill to said section the sureties are required hereafter to be residents of the United States, so that they may be within the jurisdiction of our courts in case of default on the bonds.

But to enable the citizen to avail himself of the security of such a bond it is necessary to authorize the citizen to maintain a suit in his own behalf on such bond for any damage done him by a vice-consul-general or a vice-consul in violation of his official duty, thus placing these bonds on the same plane as the bonds of United

States marshals. To accomplish this we propose to amend this bill as hereinafter specified.

This bill also in its second section amends section 1734 of the Revised Statutes so that a failure of any consular officer to account for and pay over any money or property belonging to a citizen of the United States shall be deemed guilty of embezzlement and punished accordingly. As this section now stands in the Revised Statutes it provides for the punishment of consular officers who fail to account for and pay over money belonging to the United States, and the second section of this bill simply extends this punishment to the embezzlement of money or property of citizens of the United States.

Your committee therefore recommend the passage of the bill, with, however, the following amendments, viz:

On page 1 strike out lines 5, 6, 7, and 8 to the word "read," in line 8, and insert the word "to" before the word "read" in said line 8.

Amend section 2, on page 2, by striking out all after the word "amended," in line 3, to the word "read," in line 14, and insert the word "to" before the word "read" in said line 14, on page 2.

On page 2, line 18, after the word "Treasury," insert:

"In case of a breach of any such bond, any person thereby injured may institute in his own name and for his sole use a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant, and the United States shall in no case be liable for the same.

"Said bonds shall remain after any judgment rendered thereon as a security for the benefit of any person injured by a breach of the condition of the same, until the whole penalty has been recovered, and the proceedings shall always be as directed in this section."

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